

**UNITED STATES OF AMERICA  
BEFORE THE NATIONAL LABOR RELATIONS BOARD  
REGION 32**

**CAL SIERRA DISPOSAL, INC.**

**Employer**

**and**

**Case 32-RC-152921**

**OPERATING ENGINEERS LOCAL NO. 3,  
INTERNATIONAL UNION OF OPERATING  
ENGINEERS**

**Petitioner**

**and**

**GENERAL TEAMSTERS LOCAL 439,  
INTERNATIONAL BROTHERHOOD OF  
TEAMSTERS**

**Intervenor**

**DECISION AND  
DIRECTION OF RUNOFF ELECTION**

Pursuant to a Stipulated Election Agreement, an election was conducted on Wednesday, June 17, 2015 in a unit of the Employer's lead small equipment operators, small equipment operators, sorters, scale house attendants, material handlers-hazardous waste, material handlers, and fork lift drivers. The tally of ballots showed that of the approximately 13 eligible voters, 1 cast a ballot for the Petitioner, 5 cast ballots for the Intervenor, 6 cast ballots against representation, with 1 challenged ballot, a sufficient number to affect the results.

In the absence of exceptions, I adopt pro forma the hearing officer's findings and recommendation to sustain the challenge to the one voter's ballot. The hearing officer's rulings made at the hearing are free from prejudicial error and are hereby affirmed. I find that the results of the June 17, 2015 election are inconclusive as there were three choices on the ballot, and none of the choices has received a majority of the valid votes cast. I am directing a runoff election with two choices on the ballot, the Intervenor and no union.

**DIRECTION OF RUNOFF ELECTION**

**Voters in the Runoff Election**

The National Labor Relations Board will conduct a secret ballot runoff election among the employees in the same unit as in the first election. Employees will vote whether or not they wish to be represented for purposes of collective bargaining by General Teamsters Local 439, International Brotherhood of Teamsters. The date, time, and place of the runoff election are set forth in the Notice of Election issued with this Decision.

Eligible to vote in the runoff election are those employees in the unit who were employed by the Employer during the payroll period ending on May 30, 2015 and are still in an eligible classification as of the date of the runoff election, including employees who did not work during that time period because they were ill, on vacation or temporarily laid off. Employees engaged in any economic strike, who have retained their status as strikers and who have not been permanently replaced are also eligible to vote. In addition, in an economic strike which commenced less than 12 months before the date of the first election, employees engaged in such a strike who have retained their status as strikers but who have been permanently replaced, as well as their replacements are eligible to vote. Unit employees in the military services of the United States may vote if they appear in person at the polls.

Employees who have since May 30, 2015 quit or been discharged for cause and who were not rehired or reinstated prior to the original election on June 17, 2015 are excluded from eligibility to vote in the runoff election.

The voter list that was provided by the Employer prior to the June 17, 2015 election will be used for the runoff election. The Employer and the Intervenor should inform the Board agent at the pre-election conference for the runoff election of any individuals on the voter list whom they believe are ineligible to vote in the runoff election.

### **Notice Posting**

The Employer must post copies of the Notice of Election in conspicuous places, including all places where notices to employees in the unit are customarily posted at least 3 full working days prior to 12:01 a.m. on the day of the election and must also distribute the Notice of Election electronically to any employees in the unit with whom it customarily communicates electronically. In this case, the notices must be posted and distributed before **12:01 a.m. on August 31, 2015**. The Employer's failure to timely post or distribute the election notices is grounds for setting aside the election if proper and timely objections are filed. However, a party is stopped from objecting to the nonposting or nondistribution of notices if it is responsible for the nonposting or nondistribution.

### **REQUEST FOR REVIEW**

Pursuant to Section 102.69(c)(2) of the Board's Rules and Regulations, any party may file with the Board in Washington, DC, a request for review of this decision. The request for review must conform to the requirements of Sections 102.67(e) and (i)(1) of the Board's Rules and may be filed at any time following this decision until 14 days after a final disposition of the proceeding by the regional director. If no request for review is filed, the decision is final and shall have the same effect as if issued by the Board.

A request for review may be E-Filed through the Agency's website but may not be filed by facsimile. To E-File the request for review, go to [www.nlr.gov](http://www.nlr.gov), select E-File Documents, enter the NLRB Case Number, and follow the detailed instructions. If not E-Filed, the Request

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for Review should be addressed to the Executive Secretary, National Labor Relations Board, 1015 Half Street SE, Washington, DC 20570-0001. A party filing a request for review must serve a copy of the request on the other parties and file a copy with the Regional Director. A certificate of service must be filed with the Board together with the request for review.

Dated: August 20, 2015

/s/ George Velastegui

George Velastegui, Regional Director  
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